

Louisiana Law Review

Volume 4 | Number 1

November 1941

UNION NOW WITH BRITAIN, by Clarence K. Streit. Harper & Brothers, Publishers, New York, 1941. Pp. xv, 240.

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Repository Citation

Jefferson B. Fordham, *UNION NOW WITH BRITAIN*, by Clarence K. Streit. Harper & Brothers, Publishers, New York, 1941. Pp. xv, 240., 4 La. L. Rev. (1941)

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Book Reviews

UNION NOW WITH BRITAIN, by Clarence K. Streit. Harper & Brothers, Publishers, New York, 1941. Pp. xv, 240.

Mr. Streit developed his idea of a federal union of national states before the war broke out. In 1939 he articulated it in *Union Now*, wherein he proposed that initially the union should be composed of fifteen democracies, namely, Australia, Belgium, Canada, Denmark, Eire, Finland, France, Holland, New Zealand, Norway, Sweden, Switzerland, the Union of South Africa, the United Kingdom, and the United States of America. Hitler has forced a revision of this scheme by overrunning five of the eight non-Englishspeaking countries in this group and isolating the remaining three. The present volume accordingly urges United States union now with the other Englishspeaking democracies. A common language, a predominantly common racial strain, and a common legal, political and cultural heritage are cohesive elements that strongly favor the present lineup over the original plan.

As Geneva correspondent of the New York Times Mr. Streit was practically an eye-witness to the collapse of the League of Nations. He became concerned with its weakness long before Mussolini's Ethiopian venture. And in our American political experience he found his answer. The League was roughly comparable to our Confederation under the Articles of Confederation; it was a loose arrangement between governments that could act only upon and through the member states instead of a federal state with direct governmental authority over the individual to the extent necessary to achieve its ends. So enthusiastic is Mr. Streit about our federal plan as articulated in the Constitution that at times he gives that gushiest oracle of the fiat school, James M. Beck,¹ a run for his money. Nor does he stop there. He seems to be slightly "tetched" with a Messianic complex; he is dogmatic in his assertion that his idea is our only way out, that without it we have no reasonable expectation of winning the war and winning the peace, that there is no other alternative for

1. Beck, *The Constitution of the United States* (1924). See the brilliant review of this book by T. R. Powell in the *New Republic*, February 11, 1925.

democracy and human freedom but war and frustration.² This supremely modest position is supported by an odd mixture of reasons; considerations of cold pragmatic national self-interest are paraded along with a welter of Fourth-of-July preachments about democracy and human liberty, on the one hand, and with stimulating observations concerning the need for a close-knit international political union, on the other.

The Streit plan contemplates an open-end federal union with a central government empowered

"To make war and peace for all its members, to govern their foreign relations and their non-self-governing territory, to provide them with a common defense force, a common free trade market, a common currency, a common postal and communications system, and a common citizenship; and to operate directly on, through and for the citizens individually and equally, just as the governments of both the U. S. A. and the United Kingdom now do."³

The constitution of the union would contain a bill of rights guaranteeing, at the minimum, free speech, freedom of the press and religion, and "peaceful association." There would also be a Tenth Amendment. Provision would be made for admission of new member states on a basis of equality with the original members with a view to ultimate world union.

Union now means full-fledged war now for the United States. This is meant as an uncritical observation of fact, not as an objection to Streit's proposal. One can think of worse things happening to a nation than participation in war. But I would not minimize the gravity of such a step, nor is much comfort to be had in the Streit idea that the new federal union at once offer Hitler peace on terms that would exact little more of him than that he withdraw from conquered territory. It has come my turn to moralize; compromise with Hitler would be a sacrifice of principle. The Hitler government has proved itself so incapable of decent international relations that a settlement with him could be supported only by considerations of expediency.

The need for action is deemed so urgent that Mr. Streit would set up the union provisionally at first and leave the framing and adoption of a definitive constitution to more leisurely times. The

2. At page 233 we are given a touching account of his supreme moment of inspiration.

3. P. 5.

convenient way he would by-pass fundamentals of constitutionalism in effecting provisional union is certainly a caution. Congress and the President would act for us by a resolution making a union proposal to the other national states concerned and that without previous state approval or electoral sanction in any form, nay, *sans* even a Gallup poll! Obviously the treaty power does not comprehend the abdication of United States sovereignty. But, of all provisions in the organic law, Mr. Streit finds the Tenth Amendment equal to the occasion! That amendment was designed to allay fear that the federal government would exercise powers not expressly delegated to it by the Constitution and that the states might not be able to exercise their reserved powers fully.⁴ Yet our author would have us believe that this very reservation provides a constitutional basis for exertion by Congress and the President of most solemn sovereign powers not delegated to them. A more self-contradictory argument would be hard to conceive.

There are other things about the book that invite challenge. A few samples follow. In discussing our representation in the union government he says that surely we would want each living ex-president and runner-up for the office to represent us. Then, he exults, we could "deal with war and peace on a non-partisan basis."⁵ Now, would that not be just too sweet? It is followed by a page or so of idle speculation as to who would be the union executive, capped by a triumphant suggestion that Roosevelt and Churchill might both serve after the pattern of Roman consuls. Again, we are told that no one in Europe kept us from organizing the world on a federal union plan after the last war. That is a revelation! One learns to his amazement that had *Fiske's Critical Period of American History, 1783-1789*, appeared in 1918 instead of forty years before "it might have saved us the mistake we made in organizing the world then as a league instead of a union."⁶ (Incidentally, Streit's glorification of the Fundamental Orders of Connecticut is probably traceable to Fiske.)

To perfect the Streit plan would undoubtedly take a deal more thinking through. One can think of tremendously difficult

4. Mr. Streit had hardly finished his book when the Supreme Court had occasion to say that the Tenth Amendment "states but a truism that all is retained which has not been surrendered." *United States v. F. W. Darby Lumber Co.*, 312 U.S. 100, 124, 61 S.Ct. 451, 462, 85 L.Ed. 395, 405 (1941). The textual statement above paraphrases language used by Mr. Justice Stone in the opinion in that case.

5. P. 40.

6. P. 181.

complications that he leaves unexplored. What, for example, of the political and economic problems incident to the transition to the new order? Again, would his highest court function as has the United States Supreme Court in maintaining the supremacy of the union constitution and in "umpiring the federal system"? But his work has not been without significance. His concern has been chiefly with winning the peace—something we did not do after the last war. His outlook is hopeful and courageous; he refuses to accept the attitude of almost cynical futility that experience since the last war has planted in the minds of some disillusioned erstwhile internationalists. And he scores some good points in contrasting the magnificent possibilities of a unified international society with the ingrown, retrogressive aspects of nationalism. In short, his book has its provocative phases and it is addressed to the most vital problem of our times.

As annexes to the volume Mr. Streit appends drafts of an illustrative declaration of inter-dependence and union and an illustrative constitution. Adequate comment upon them would require an essay.

JEFFERSON B. FORDHAM*

HANDBOOK OF THE LAW OF TORTS, by William L. Prosser. West Publishing Co., St. Paul, 1941. Pp. xiii, 1309. \$5.00.

The annual meeting and barbecue of the National Union of Torts Scholars, more popularly known by its initials, was held last night at the Odd Fellows Hall. With the assistance of the police, the meeting was called to order, with PROFESSOR WARREN A. SEAVEY, of Harvard, occupying the chair.

THE CHAIRMAN announced that the subject for discussion was the text which had recently appeared, written by Professor William L. Prosser of Minnesota, and entitled "A Handbook of the Law of Torts." He might venture the comment that this was something of a misnomer, as the book was not very well adapted to carrying in the hand without imminent peril to the toes. (Laughter). It had been published by the West Publishing Company, the well-known law book corporation of St. Paul, was handsomely bound in fabrikoid of a beautiful Harvard crimson with real gold lettering, and was printed throughout in very

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